

REMARKS

The present Amendment amends claims 33, 39 and 44 and leaves claims 34-38, 40-43 and 45-49 unchanged. Therefore, the present application has pending claims 33-49.

Amendments were made to the specification to correct minor errors discovered upon review.

Claims 33-49 stand rejected under 35 USC §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as their invention. Various amendments were made to claims 33-49 to bring them into conformity with the requirements of 35 USC §112, second paragraph. Therefore, Applicants submit that this rejection is overcome and should be withdrawn.

Specifically, amendments were made throughout claims 33-49 to overcome the objections noted by the Examiner in paragraph 3 of the Office Action.

The Examiner's cooperation is respectfully requested to contact Applicants' Attorney by telephone should any further indefinite matters be discovered so that appropriate amendments may be made.

Claims 33-46 stand rejected under 35 USC §103(a) as being unpatentable over Fenwick (U.S. Patent No. 4,947,244) in view of Bennett (U.S. Patent No. 4,975,951); and claims 47-49 stand rejected under 35 USC §103(a) as being unpatentable over Fenwick in view of Bennett and further in view of Yamada (JP No. 9-247616). These rejections are traversed for the following reasons. Applicants submit that the features of the present invention as now more clearly recited in

claims 33-49 are not taught or suggested by Fenwick, Bennett or Yamada whether taken individually or in combination with each other as suggested by the Examiner. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw these rejections.

Amendments were made to the claims so as to more clearly describe features of the present invention not taught or suggested by any of the references of record whether taken individually or in combination with each other. Particularly, amendments were made to each of the claims to more clearly recite that the controller determines the number of other apparatuses, determines whether the other apparatuses are regularly certified apparatuses which can receive the program or data, restricts the other apparatuses, to which the output circuit can output the program or data, to the regularly certified apparatuses, and restricts the number of the regularly certified apparatuses which can simultaneously view or record the program being output to be less than or equal to a predetermined number.

The above described features of the present invention now more clearly recited in the claims are not taught or suggested by any of the references whether taken individually or in combination with each other.

Various arguments were presented in the Remarks of the August 11, 2004 Amendment distinguishing the features of the present invention from Fenwick and Yamada, said Remarks being incorporated herein by reference.

As per the Remarks of the August 11, 2004 Amendment Applicants hereby again submit that the features of the present invention as recited in the claims are not taught or suggested by Fenwick. Particularly, the features of the present

invention as clarified in the present Amendment are not taught or suggested by Fenwick.

In the Office Action the Examiner alleges that Fenwick discloses that:

"said controller determines whether said other apparatuses can review or record the program by obtaining licenses for public showing of the program (see col. 10, lines 52-67 and col. 11, lines 1-2), thereby restricting the number of said other apparatuses, to which said output circuit provides the output, to be less than or equal to a predetermined number (see col. 7, line 55 to col. 8, line 28)".

Upon review of the above noted passages of Fenwick referred to by the Examiner, it is quite clear that there is absolutely no teaching or suggestion in Fenwick of the operations performed by the controller of the present invention as recited in the claims.

For example, the passage in Fenwick beginning at col. 10, line 52 through col. 11, line 2 simply describes a controller which executes a sequence of management programs including a request handling routine 260 that analyzes video selection requests sent by the various video monitors so as to convert the requests into on/off commands for selected ones of the audio-visual sources 112 and setup signals that are transmitted to the cross-bar switch 150 so as to couple specified video sources to the cables and frequency bands associated with specified monitors. There is absolutely no teaching at any point in Fenwick that the request handling routine 260 performs any restricting functions as alleged by the Examiner. The request handling routine 260 simply couples a video source to a specified monitor without determining (1) whether the monitor is a regularly certified apparatus which can receive the

program or (2) whether adding the monitor as a monitor receiving the video source causes the number of regularly certified apparatuses simultaneously viewing or recording the video source to exceed a predetermined number as in the present invention.

Further, the passage in Fenwick beginning at col. 7, line 55 through col. 8 simple describes monitoring of the capacity of the system with regard to the 16 bus lines on bus 172. Fenwick teaches that if "too many users try to order movie services at one time, and thereby overload the system internal bus 172, an appropriate message display would be sent to the monitors which are unable to order a video program". This teaching of Fenwick is related to notifying monitors when the capacity of the overall system has been exceeded. This teaching of Fenwick is not related to restricting the number of apparatuses which can simultaneously receive a particular program or data relative to a predetermined number as in the present invention. More specifically, this passage of Fenwick is not concerned with restricting the number of apparatuses which can simultaneously receive the program or data to a predetermined number of regularly certified apparatuses as in the present invention.

Even further, as recognized by the Examiner there is absolutely no teaching or suggestion in Fenwick regarding the certification of apparatuses as an apparatus that can receive specified programs and data, determining whether an apparatus has been certified, and restricting of the number of apparatuses to which the output program can be simultaneously received to a predetermined number of the regularly certified apparatuses as in the present invention.

Thus, Fenwick fails to teach or suggest that the controller determines the number of the other apparatuses and determines whether the other apparatuses are regularly certified apparatuses which can receive the program or data as recited in the claims.

Further, Fenwick fails to teach or suggest that the controller restricts the other apparatuses, to which the output circuit can output the program or data, to the regularly certified apparatuses as recited in the claims.

Still further, Fenwick fails to teach or suggest that the controller restricts the number of the regularly certified apparatuses which can simultaneously view or record the program being output to be less than or equal to a predetermined number as recited in the claims.

The above noted deficiencies of Fenwick are not supplied by any of the other references of record. Particularly, the above described deficiencies of Fenwick are not supplied by Bennett or Yamada.

Bennett discloses a distribution control system for controlling the distribution of scrambled impulse pay per view (IPPV) programming from a plurality of different IPPV programmers to a plurality of descramblers. Bennett teaches in col. 2, lines 40-57 that the distribution control system controls:

“the distribution of IPPV programming to descramblers that individually may be authorized to descramble a given IPPV program upon processing of cost data for the program and credit data for the descrambler only when said IPPV status data identifies the given IPPV program as being authorized for purchase and the authorization data for the descrambler indicates that purchase of IPPV programs provided by the programmer providing said given IPPV program is authorized, each of the individual descrambler messages provided by the IPPV data

management system contains a plurality of tier authorization bits, with the position of each bit identifying a tier of IPPV programs and each bit indicating whether purchase by the individual descrambler is authorized for the tier of IPPV programs identified by such bit”.

It is quite from the above noted passage of Bennett that it is merely directed to the authorization or certification of whether fees or charges from the viewer have been collected prior to receipt of a IPPV program. This teaching of Bennett has absolutely no relationship to the certification of apparatuses as in the present invention wherein the certification is intended to identify a particular apparatus as being one having the appropriate configuration to receive a particular program or data. Such features are clearly not taught or suggested by Bennett.

Thus, Bennett fails to teach or suggest that the controller determines whether the other apparatuses are regularly certified apparatuses which can receive the program and restricts the other apparatuses, to which the output circuit can output the program or data, to the regularly certified apparatuses as recited in the claims.

Further, there is no teaching or suggestion in Bennett of the above described features of the present invention wherein the controller restricts the number of the regularly certified apparatuses which can simultaneously view or record the program or data being output to be less than or equal to a predetermined number as recited in the claims.

Therefore, as is clear from the above, both Fenwick and Bennett suffer from the same deficiencies relative to the features of the present invention as now more clearly recited in the claims. Combining the teachings of Fenwick and Bennett in the manner suggested by the Examiner in the Office Action still fails to teach or suggest

the features of the present invention as now more clearly recited in the claims. Accordingly, reconsideration and withdrawal of the 35 USC §103(a) rejection of claims 33-46 as being unpatentable over Fenwick in view of Bennett is respectfully requested.

The above noted deficiencies of both Fenwick and Bennett are also not supplied by Yamada. Therefore, combining the teachings of Fenwick, Bennett and Yamada in the manner suggested by the Examiner in the Office Action still fails to teach or suggest the features of the present invention as now more clearly recited in the claims.

Yamada is merely relied upon by the Examiner for an alleged teaching of the coding (scrambling) of output programs. However, at no point is there any teaching or suggestion in Yamada of the above described features of the present invention now more clearly recited in the claims regarding the operations performed by the controller.

Thus, the combination of Fenwick, Bennett and Yamada fails to teach or suggest the features of the present invention as now more clearly recited in the claims. Therefore, reconsideration and withdrawal of the 35 USC §103(a) rejection of claims 47-49 as being unpatentable over Fenwick in view of Bennett and further in view of Yamada is respectfully requested.

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references utilized in the rejection of claims 33-49.

In view of the foregoing amendments and remarks, applicants submit that claims 33-49 are in condition for allowance. Accordingly, early allowance of claims 33-49 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (520.36900X00).

Respectfully submitted,

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